

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

**MISSISSIPPI POWER COMPANY
EC-120-0097-00**

DOCKET NO. 2019-UA-116

**IN RE: PETITION OF MISSISSIPPI POWER COMPANY FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY FOR ENVIRONMENTAL COMPLIANCE
ACTIVITIES AUTHORIZING THE CLOSURE OF THE ASH
POND, CONSTRUCTION OF LOW VOLUME
WASTEWATER TREATMENT FACILITIES, AND
CONVERSION OF BOTTOM ASH COLLECTION
FACILITIES FOR THE PLANT VICTOR J. DANIEL
ELECTRIC GENERATING FACILITY IN JACKSON
COUNTY, MISSISSIPPI**

**MISSISSIPPI POWER COMPANY'S REPLY
TO SIERRA CLUB'S RESPONSE TO
MOTION TO STRIKE TESTIMONY OF RACHEL WILSON**

COMES NOW, Mississippi Power Company, ("MPC" or the "Company") and files this its Reply to Sierra Club's ("Sierra Club" or "SC") Response to MPC's Motion to Strike the Testimony of Rachel Wilson in the above styled and referenced matter, and would show unto the Commission the following:

Sierra Club's Response to MPC's Motion confirms and actually supports MPC's fundamental reason for moving to strike Ms. Wilson's testimony. Counsel for Sierra Club confirms in the Exhibit to Sierra Club's Response that it was acutely aware that the issuance of a scheduling order could preclude the filing of testimony if such testimony is not allowed by the scheduling order. Counsel to the Sierra Club states the following in his request of Mr. Farmer:

Frank, I don't find any deadline in the Commission's rules for intervenors submitting prefiled testimony in a certificate proceeding

when there is no scheduling order in place. Is there in fact any deadline in this situation?

The Scheduling Order referenced in MPC's Motion was issued over a month before Sierra Club submitted testimony, and such testimony was not authorized in the Scheduling Order. The Commission is not required to address everything that is prohibited in the Scheduling Order. The Scheduling Order speaks for itself as to what procedures would follow its issuance and is essentially self-executing.

At the time of Mr. Farmer's response, no such scheduling order had been issued—that was the “situation”. However, that situation changed decisively when the Commission issued its Scheduling Order. Sierra Club failed to take advantage of the opportunity to file timely testimony before such opportunity was foreclosed by the issuance of the Scheduling Order, choosing instead to ignore the provisions of the Order and the advice of the Commission's General Counsel and to file testimony one week prior to the scheduled hearing.

Sierra Club has delayed and sought delay at every step in these proceedings, seeking advantage for itself and prejudice to MPC. For these additional reasons and for those reasons previously cited in MPC's Motion, Ms. Wilson's testimony should be stricken, and she should be foreclosed from appearing and participating in the hearing of this matter for any purpose whatsoever.

Without waiving its rights with respect to the Motion, but considering that the Commission may not have an opportunity to rule on MPC's Motion prior to the hearing date, MPC has simultaneously filed the Rebuttal Testimony of Mr. David F. Schmidt in this docket, a copy of which is attached as Attachment “A” hereto. Mr.

Schmidt will appear at the hearing of this matter to adopt such testimony and submit to cross-examination regarding his rebuttal testimony, unless Ms. Wilson's direct testimony is stricken pursuant to Commission order.

RESPECTFULLY SUBMITTED on this, the 23rd day of October, 2019.

MISSISSIPPI POWER COMPANY

BY: BALCH & BINGHAM LLP

BY: 
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CERTIFICATE OF SERVICE

I, RICKY J. COX, counsel for Mississippi Power Company in the Petition filed with the Mississippi Public Service Commission (the “Commission”) of even date herewith do hereby certify that in compliance with Rule 6 of the Commission's Public Utilities Rules of Practice and Procedure (the “Rules”):

(1) An original and twelve (12) copies of the filing have been filed with the Commission by U.S. Mail to:

Katherine Collier, Esq.
Executive Secretary
Mississippi Public Service Commission
501 North West Street, Suite 201A
Jackson, MS 39201

(2) An electronic copy of the filing has been filed with the Commission via e-mail to the following address:

efile.psc@psc.state.ms.us

(3) A copy of the filing was served via U.S. Mail, postage prepaid, upon each of the following parties of record:

Frank Farmer, Esq.
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(4) MPC has complied with or requested a waiver of all other requirements of this Commission's Rules.

THIS, the 23rd day of October, 2019.



Ricky J. Cox